

SENATE BILL 396
By Cohen

AN ACT to enact the "Tennessee Anti-SLAPP Act of 1997."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Anti-SLAPP Act of 1997".

SECTION 2. It is the intent of the general assembly to provide protection for individuals who make good faith reports of wrongdoing to appropriate governmental bodies. Information provided by citizens concerning potential misdeeds is vital to effective law enforcement and the efficient operation of government.

The legislature finds that the threat of a civil action for damages in the form of a strategic lawsuit against political participation (SLAPP), and the possibility of considerable legal costs, can act as a deterrent to citizens who wish to report information to federal, state, or local agencies. SLAPP suits can effectively punish concerned citizens for exercising the constitutional right to speak and petition the government for redress of grievances.

SECTION 3.

(1) Any person who in furtherance of his or her right of free speech or petition under the Tennessee or United States constitutions in connection with a public or governmental issue communicates information regarding another person or entity to any agency of the federal, state or local government regarding a matter of concern to that

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agency shall be immune from civil liability on claims based upon the communication to the agency.

(2) The immunity conferred by this subsection shall not attach if the person communicating such information:

(A) Knew the information to be false; or

(B) Communicated information in reckless disregard of its falsity; or

(C) If such information pertains to a person or entity other than a public figure, whether the communication was made negligently in failing to ascertain the falsity of the information.

(3) A person prevailing upon the defense of immunity provided for in this section shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense.

SECTION 4.

(a) In order to protect the free flow of information from citizens to their government, an agency receiving a complaint or information under the provisions of Section 3 of this act may intervene and defend against any suit precipitated by the communication to the agency. In the event that a local government agency does not intervene in and defend against a suit arising from any communication protected under this act, the office of the attorney general and reporter may intervene in and defend against the suit.

(b) An agency prevailing upon the defense of immunity provided for in Section 3 of this act shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense. If the agency fails to establish such defense, the party bringing such action shall be entitled to recover from the agency costs and reasonable attorneys' fees incurred in proving the defense inapplicable or invalid.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.